



Substitute House Bill No. 6806

Public Act No. 05-61

***AN ACT CONCERNING INSURANCE PRODUCER
COMPENSATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2005*) (a) As used in this section:

(1) "Affiliate" means a person who (A) controls, is controlled by, or is under common control with a producer, and (B) is permitted to receive compensation pursuant to chapter 701a of the general statutes;

(2) "Compensation from an insurer or other third party" means payments, commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes or other forms of valuable consideration, whether or not payable pursuant to a written agreement;

(3) "Compensation directly from the customer" does not include any fee or amount allowed under section 38a-707 of the general statutes and regulations adopted pursuant to said section or any fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner pursuant to section 38a-707 of the general statutes;

Substitute House Bill No. 6806

(4) "Customer" does not include a person whose only relationship to the producer or affiliate with respect to the placement of insurance is as (A) a participant or beneficiary of an employee benefit plan, or (B) a person covered under a group or blanket insurance policy or group annuity contract;

(5) "Documented acknowledgement" means the customer's written consent, except that in the case of a purchase over the telephone or by electronic means for which written consent cannot reasonably be obtained, "documented acknowledgement" includes consent documented by the producer; and

(6) "Insurance producer" or "producer" means an insurance producer, as defined in section 38a-702a of the general statutes, except that "insurance producer" or "producer" does not include (A) a person such as a managing general agent, sales manager or wholesale broker who is licensed as an insurance producer and who acts only as an intermediary between an insurer and the customer's producer, or (B) a reinsurance intermediary.

(b) If an insurance producer or affiliate of such producer receives any compensation directly from a customer for the initial placement of insurance, neither the producer nor the affiliate shall accept or receive any compensation from an insurer or other third party for that placement of insurance unless the producer has, prior to the time the policy is delivered to the customer:

(1) Obtained the customer's documented acknowledgment that such compensation will be received by the producer or affiliate; and

(2) Disclosed the amount of compensation that the producer or affiliate will receive from the insurer or other third party for the placement, except that if the amount of compensation is not known at the time of disclosure, the producer shall disclose the specific method

Substitute House Bill No. 6806

for calculating such compensation and, if possible, a reasonable estimate of the amount.

(c) Subsection (b) of this section shall not apply to:

(1) An insurance producer who (A) does not receive compensation directly from the customer for the placement of insurance, and (B) discloses to the customer prior to the time the policy is delivered to the customer:

(i) That the producer will receive compensation from an insurer in connection with that placement; or

(ii) That, in connection with that placement of insurance, the insurance producer represents the insurer and that the producer may provide services to the customer for the insurer;

(2) The placement of insurance in surplus lines or residual markets; or

(3) A producer whose sole compensation is derived from commissions or other remuneration from the insurer.

Sec. 2. Subdivision (1) of section 38a-816 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(1) Misrepresentations and false advertising of insurance policies. Making, issuing or circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement, sales presentation, omission or comparison which: (a) Misrepresents the benefits, advantages, conditions or terms of any insurance policy; (b) misrepresents the dividends or share of the surplus to be received, on any insurance policy; (c) makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance

Substitute House Bill No. 6806

policy; (d) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates; (e) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; (f) is a misrepresentation, including, but not limited to, an intentional misquote of a premium rate, for the purpose of inducing or tending to induce to the purchase, lapse, forfeiture, exchange, conversion or surrender of any insurance policy; (g) is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or (h) misrepresents any insurance policy as being shares of stock.

Approved June 2, 2005